

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CELSO K. STEPHENS,

Plaintiff,

v.

No. CIV 14-0237 MV/KK

DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's post-judgment Motion for Leave, to Secure Plaintiff's Requesting a Continuance (Doc. 20) filed on March 27, 2015. The Court dismissed Plaintiff's complaint with prejudice under 28 U.S.C. § 1915(e)(2) and rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim under § 1983. As grounds for his motion, Plaintiff alleges that he has attempted to obtain legal representation. He also asserts that he has a valid claim and is legally incompetent. Plaintiff asks the Court to grant a continuance while he attempts to secure representation or, alternatively, to appoint counsel for him.

The Court construes Plaintiff's motion as a motion to reopen this action, and evaluates the motion under the standards for relief in rule 60(b) of the Federal Rules of Civil Procedure. *See Burns v. C.I.A.*, No. 93-5153, 1994 WL 36770, at *1 (10th Cir. Feb. 8, 1994) (construing a motion to reopen as a rule 60(b) motion). Grounds for relief under rule 60(b) include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud, void judgment, satisfaction of judgment, and any other reason that justifies relief. *See* Fed. R. Civ. P. 60(b)(1-6). “[M]otions considered under Rule 60(b) must be shaped to the grounds 60(b) lists as possible bases for relief. Such motions cannot be mere general pleas for relief.” *Helm v. Resolution Trust Corp.*, 43 F.3d 1163, 1167 n. 2 (7th Cir. 1995). Because the Court dismissed Plaintiff's complaint

for failure to state claims for relief, the allegation that he has a valid claim simply disagrees with the Court's ruling and does not warrant relief under rule 60(b). The Court will deny Plaintiff's motion to reopen this action.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave, to Secure Plaintiff's Requesting a Continuance (Doc. 20) filed on March 27, 2015, is DENIED.



UNITED STATES DISTRICT JUDGE